HON'BLE SRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE G.V. SEETHAPATHY

WRIT APPEAL No. 734 OF 2006

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Between:

The State Election Commission,
Rep. by its Secretary, G.N. Rao,
S/o. Somaiah, aged 56 years, 3rd Floor,
Budha Bhavan, Secunderabad – 3.

……Appellant

And

Isanaka Balakrishna Reddy
and four others

……Respondents

:: JUDGMENT ::

Counsel for the Appellant : Sri V.V. Prabhakar Rao

Counsel for Respondent No.1 : Sri P. Sridhar Reddy

Counsel for Respondent Nos.2 to 4 : Government Pleader for Panchayat Raj

Dated: 27-06-2006

Per G.S. SINGHVI, CJ

This appeal is directed against order dated 22-6-2006 passed by the learned Single Judge in WPMP No.15646 of 2006 in Writ Petition No.12592 of 2006 whereby he directed the appellant and respondent Nos. 2 to 4 to allow the writ petitioner (respondent No.1 herein) to contest election for the membership of Mandal Parishad Territorial Constituency, Doruvulapalem, Muthukur Mandal, Nellore District.

In the writ petition filed by him, respondent No.1 challenged the legality and correctness of order dated 18-6-2006 passed by the Returning Officer, Muthukur Mandal refusing to entertain his nomination paper. He pleaded that even though his name is included in the final voter list of the Mandal Parisad, the officer concerned arbitrarily rejected the nomination paper on the ground that he is a trustee of Sri Chennakesavaswamy Vari Devasthanam, Epuru.

On a consideration of the averments contained in the affidavit of respondent No.1, the learned Single Judge passed the impugned order.

The appellant has challenged the order of the learned Single Judge mainly on the ground that the writ petition filed by respondent No.1 questioning the rejection of his nomination paper is not maintainable in view of the express bar contained in Article 243-0 of the Constitution of India.

We have heard learned counsel for the parties and perused the record. In our opinion, it is not necessary to record a detailed order because the issue raised in the appeal has already been decided vide detailed order dated 23-6-2006 passed in W.A. (SR) No.65599 of 2006 – **The State Election Commission v. M. Rajendra Prasad and others**. In that case, the Court considered the appellant's challenge to an interlocutory order similar to the one impugned in this appeal and held that rejection of nomination paper constitutes an election dispute and that in view of the bar contained in Article 243-O of the

Constitution, the High Court cannot directly entertain writ petition under Article 226 questioning the alleged wrongful rejection of nomination paper. The Court further held that the aggrieved person has to first avail statutory remedy by filing election petition under the law enacted by the State Legislature. He/she can file writ petition only if the order of the adjudicatory authority is adverse to him/her.

In our opinion, the present case is fully covered by the aforementioned judgment and the appeal is liable to be disposed of in similar terms.

Hence, the appeal is allowed. Order dated 22-6-2006 passed by the learned Single Judge in WPMP No.15646 of 2006 in Writ Petition No.12592 of 2006 is set aside with the direction that the detailed reasons recorded in order dated 23-6-2006 passed in W.A. (SR) No.65599 of 2006 shall be read as part of this order.

G.S.SINGHVI, CJ

G.V. SEETHAPATHY, J

June 27, 2006

Ks/svs